IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.996 OF 2006
IN
CRIMINAL APPEAL NO.884 OF 2006

Dhiraj Chotelal Sharma ...Applicant
vs.
State of Maharashtra ...Respondent

Mr.R.N.Gaonkar i/b Mr.Divar Rai and Mr.A.B.Bhoir Advocates for the Applicant
Mr.S.V.More, A.P.P. for State

CORAM: A.S.OKA,J.
DATE : DECEMBER 1,2006.

P.C.:

1. The submissions of the Advocates appearing for the parties were heard yesterday. The Applicant is accused No.2 who has been convicted for offences punishable under section 392 read with section 34 of the Indian Penal Code. The substantive sentence is of R.I. for five years. The Applicant has already undergone the sentence for one year and six months.

2. The evidence against the Applicant is in the form of recovery of stolen property. The allegation of the prosecution is that the Applicant along with other accused persons entered the house of one Sorab Beharamji Bhaya with intention to commit theft and they committed murder of the said Sorab. Two accused persons are absconding. The Applicant and the Accused no.1 have been acquitted for the alleged offences under section 449 read with section 34 of the Indian Penal Code and 397 and 302 read with section 34 of the

Indian Penal Code.

3. I have perused the notes of evidence and the impugned Judgment. None of the prosecution witnesses have deposed that the Applicant entered the building in question on the date of the offence. My attention has been invited to the evidence of the Investigating Officer (P.W.No.14) who candidly admitted that it was revealed from the investigation that the Applicant has not visited the flat of the deceased on the date of the incident. In view of the said admission and considering the other material on record and considering the fact that the Applicant has already undergone sentence for one and half years, a case is made out for enlarging the Applicant on bail subject to stringent conditions.

4. Hence, Application is disposed of by passing the following order :

i) The Applicant shall be enlarged on bail in the sum of Rs.15,000/- (Rupees fifteen thousand only) with one or two local sureties in the like amount.

ii) Bail is granted subject to condition that the Applicant will report to Gaodevi Police Station, Mumbai on every first and third Saturday of every calendar month till the disposal of the Appeal.

JUDGE